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SUBJECT: Second update on USG support for the  
Justice Commission

REF: Kabul 639

1. Summary: The Commission for Reform of Justice and the Judiciary (CRJJ) continues to make strides in implementing elements of its Master Plan, which includes 29 reform tasks and a rough budget and timeline. The entire Plan has not been officially approved, which impedes needed upgrades in donor coordination and commitments. Nonetheless, the Commission's selection and initial implementation of priority actions should elicit optimism over the possibility of reform occurring in the justice sector. The USG has been the primary donor, to date; though, the Italians are designated to be the lead coordinating country. Through USAID, STATE/INL and CJCMOTF, the USG will continue to support the Commission and will help the CRJJ initiate four out of the five high priority activities that it has selected from its Master Plan. End Summary.

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Establishment of the Work Plan  
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2. USAID, through contracts with Bearing Point and Management Systems International (MSI) and a subcontract with the Asia Foundation (TAF), has been providing assistance to the Judicial Commission, since its inception. Technical assistance helped the Commission for Reform of Justice and the Judiciary (CRJJ) establish a Master Plan and initialize the implementation of elements of the Plan. The Plan comports with both mandates from the Bonn Accords and Presidential Decree #153 that direct the CRJJ to operate in the following four areas: 1) Law Reform; 2) Surveys, Physical Infrastructure, and Training; 3) Legal Education and Awareness; 4) Structure of Judicial Institutions.

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CRJJ Progress with USG Assistance  
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3. The USG, through OTI and CJCMOTF, has assisted the CRJJ with extensive reconstruction of the judicial infrastructure and equipment. For example, OTI funded the Kabul Public Court House. Currently, the USG is also contributing to four of the five priority areas of the Work Plan selected by the CRJJ for immediate implementation. For each priority area, the CRJJ will establish a working group. The CRJJ has already selected appropriate lead and cooperating Ministries, as well as participating legal entities, organizations and actors. USAID will provide technical advisors for four of these priority areas to help facilitate cooperation among the working group, budget development and other organizational needs. USAID advisors will also provide substantive technical advice that includes methods for research and implementation of the reforms. It remains unclear how successful this cooperation will be between entities, particularly among other Ministries that may resist elements of the reform tasks.

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Summary of the four USG support areas  
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4. Advisor to the Chairman of the CRJJ: The CRJJ faces many challenges and multiple tasks. It is charged with rebuilding the domestic justice system, which includes assessing the current state of the system, researching and proposing reforms and, in cooperation with UNAMA and the Italians, enlisting and coordinating the necessary technical and donor support. USAID,

through the TAF and MSI, will provide a technical advisor to support the CRJJ's efforts in law reform and compilation, to organize a process for public input into decision for reform, to revise laws and to analyze need for reform the court systems. The advisor will also provide administration support to the Commission and design approaches to training.

15. Property Deed Rehabilitation: Property deed rehabilitation is considered an urgent issue to secure mortgages in urban areas and title for collateral in rural areas. The Ministry of Finance is charged with the issue and may provide some funding from the ARTF. USAID will manage the process by providing technical assistance on deed registry systems with the aim of proposing appropriate reforms. The technical advisor will work with a CRJJ working group to make decisions about the appropriate technology, draft proposed amendments on the law for recording deed and other laws related to land tenure. USAID will also provide infrastructural support for the rehabilitation of the property deed registry at the Kabul court, attempt to preserve property deeds and modernize the property deed recording office. This work will build upon current USAID/OTI-funded emergency assistance in preserving the property deeds presently found in two locations.

16. Prototype Legal Facility for the district level: The physical infrastructure of courts is a fundamental component to the long-term plan for judicial rehabilitation. The CRJJ plans to have designed a government complex which would encompass the district court facilities. The Ministry of Urban Development will coordinate the design process. STATE/INL will fund the construction, contributing \$200,000 to \$250,000. With USAID support, MSI will hire an architect to develop an optimal design for a district courthouse that would accommodate all appropriate functions for such a facility. The legal facility is designed to become a demonstration model and develop information regarding the costs of such a facility. The building will include space for the public to watch the proceedings, for staff to work and possibly reside, a law library with public access, detention facilities for criminal suspects, legal aid and a bar association. The prototype will also include an incinerator for narcotics, a place for evidence storage and a center for prosecutorial training. Currently, CJCMOTF is considering assisting in the construction of district level legal facilities. This design will provide a good base model for that construction.

17. Public Education Advisor: Public awareness of the formal law in Afghanistan is minimal. Legal literacy is needed to inform the public, strengthening democracy and enhance access to justice. USAID is expected to provide at least one technical advisor to CRJJ to assist the public education process around reforms in the justice sector. The technical advisor will also work with the CRJJ to coordinate with the Constitutional Commission on publicity related to the new constitution after its adoption. The public education program may include legal seminars, workshops and round-tables for the public; radio programs on legal rights and advertisements in the print media.

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Possible future USG assistance to the CRJJ  
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18. Planning for support for the CRJJ has proceeded in two additional areas. INL, through TAF, plans to provide support for a one-year program in prosecutorial training. Training prosecutors would inaugurate CRJJ plans to require training and examinations and pay scales for the justice sector and tie personnel for promotion and increases in salary to an examination process. A second area currently under planning is USAID's supported reform in public administration. Following the ratification of the Constitution, the organization of the state and building transparency and accountability into this organization will be a pressing priority. However, the law reform demanded by reform in public administration is a politically sensitive

area, which involves reform that reaches beyond the specter of judicial and criminal reform. Consequently, public administration is burdened with political uncertainty and apprehension that hinders the pace and the uniformity of its implementation.

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CRJJ assistance from other government donors  
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9. The Italians have adopted the lead on performing a survey on the institutional status of the Justice Sector across Afghanistan, as well as an evaluation of the existing informal systems. Initial development of this survey was executed by USAID-funded technical assistance through the TAF, in cooperation with CJCMOTF. The survey of Kabul is complete and USAID has been informed by the Italians that the survey process has begun in 5 other regions. It is unclear when the Italians will complete the project.

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Concerns on progress of the Justice Commission  
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10. Three issues related to the work of the CRJJ should be monitored. First, the CRJJ needs to officially approve the Master Plan and release it, in order to elicit greater donor commitments. Second, it is important to note that many of the first approved projects focus more on the form of the system and less on the substance of law reform. The political sensitivity around extensive law reform often slows or stalls its implementation in transitioning countries. Third, coordination between the Constitutional Commission and the Judicial Commission appears to be strained, as indicated by the Constitutional Commission's unwillingness to share a copy of the draft Constitution with the Justice Commission. Problems in coordination will hinder the ability of the Justice Commission to do some of the work mandated by Bonn, such as the creation of a draft law on the constitutional court and the law on justice administration.

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